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The Honorable P. Kevin Castel  
United States Courthouse for the  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street, Room 1312  
New York, New York 10007

Re: *In re Bank of America Corp. Securities, Derivative and ERISA Litigation*  
No. 09-MD-2058 (PKC) (Consolidated Securities Action)

Dear Judge Castel:

This firm represents defendants Bank of America Corp. ("Bank of America" or "the Bank"), Banc of America Securities LLC, and certain individual defendants<sup>1</sup> (together, the "Bank Defendants") in the above-referenced action. We respectfully submit this letter pursuant to Your Honor's direction at the September 7, 2011, status conference that Defendants submit a list of those witnesses that they currently intend to depose to facilitate the Court's determination of the number of merits depositions as to which Defendants will be entitled in the Consolidated Securities Action.

<sup>1</sup> Kenneth D. Lewis, Joe L. Price, Neil A. Cotty, William Barnet III, Frank P. Bramble, Sr., John T. Collins, Gary L. Countryman, Tommy R. Franks, Charles K. Gifford, Monica C. Lozano, Walter E. Massey, Thomas J. May, Patricia E. Mitchell, Thomas M. Ryan, O. Temple Sloan, Jr., Meredith R. Spangler, Robert L. Tillman, and Jackie M. Ward.

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ANDREW HEAVY  
ACCIDENT PARTNER

MEMO ENDORSED

September 9, 2011

*All Defendants are authorized to take up to 18 merits depositions (i.e. excluding class discovery) without further leave of Court. SO ORDERED 9-9-11*

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Accordingly, and based on the understanding that Plaintiffs will examine the witnesses they identified to the Court on September 7, below is a list of persons and entities that Defendants currently intend to depose and a description of their roles during the relevant time period.

David Brawn (Merrill, Head of Price Verification Group),

Scott Brown (Merrill, Head of Credit for Fixed Income Currency and Commodities (FICC)),

Frank D'Alessio (Merrill, Employee in FICC),

Noel Donohoe (Merrill, Co-Head of Risk),

John Finnegan (Merrill, Director and Chairman of the Management Development and Compensation Committee),

Scott Lim (Merrill, Employee in the Price Verification Group),

Ed Moriarty (Merrill, Co-Head of Risk),

Ann Reese (Merrill, Director and Chairwoman of the Audit Committee),

Paul Wetzel (Merrill, Employee in the Investment Banking Group),

Towers Perrin (Merrill's Compensation Consultant), and

Up to five (5) analysts who covered Bank of America, Merrill and/or the financial services industry.

In addition, Defendants would seek to depose any witness solely necessary to authenticate documents Defendants intend to use at trial. Finally, Defendants have not listed current employees of the Bank, whose depositions Defendants would not intend to take unless they leave the Bank prior to the close of discovery.

Respectfully submitted,



Mitchell A. Lowenthal